
THE
DECLINATOR
AND
PROTESTATION,
OF

The Arch-bishops, and Bishops, of the
CHURCH of SCOTLAND, *and others their*
Adherents within that Kingdome:

Agaynst the pretended G^EN^ERALL ASSEMBLIE,
holden at GLASGOW, Novemb. 21. 1638.



ABERDENE,

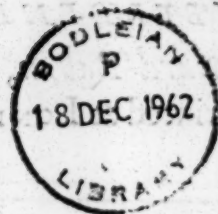
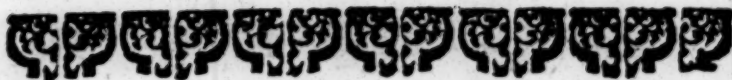
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the Copie Printed at LONDON, 1639.

13t from John Grant



It is his Majesties pleasure
that this be printed: For
the which, this shall bee
your Warrant:

HAMILTON.





E Arch-bishops, Bishops, and other Under-subscribers, for our selues, and in name & behalfe of the Church of Scotland, (whereas it hath pleased the King's Majestie, to indict *A Generall*

Assemblee of the Church, to bee kept at *Glasgow*, *Novemb. 21. 1638.* for composing and setting of the *Distractions* of the same) First doe acknowledge, and professe, That *A Generall Assemblee*, lawfullie called, and orderlie conveaned, is a most necessarie & effectuall *Meane*, for removing those evils wherewith the sayd *Church* is infested, and for setting that *Order* which becometh the House of *GOD*: and, That we wish nothing more, than a *Meeting* of a peaceable and orderlie *Assemblee*, to that effect. Secondlie, we acknowledge, and professe, as becometh good Christians, and faythfull Subjects, That his Majestie hath authoritie, by his *Prerogative Royall*, to call *Assemblies*, as is acknowledged by the *Assemblee* at *Glasgow*, 1610. and *Parliament* 1612. and, That it is not lawfull to conveane without his Royall consent, and approbation, except wee will put our selues in danger to be called in question for *Sedition*.

Yet, never-the-lesse, in sundrie respectes, wee can not but esteeme this *Meeting at Glasgow*, most vnlawfull, and disorderlie; and their *Proceedinges* voyde, and *Null in Lawe*, for the *Causes* and *Reasons* following.

I. First: Before his Majesties Royall Warrant to my *Lord Commissioner* his Grace, to indict *A Lawfull Free Generall Assemblie*, the vsurped *Authoritie* of the *Table*, (as they call it) by their *Misshins*, and *Instructions*, did giue order and direction, for all *Presbyteries*, to elect and choose their *Commissioners* for the *Assemblie*; and for seeking of *GOD'S Blessing* to it, to keepe a solemne *Fast*, *September 16*; vvhereas his Majesties Warrant, for indicting of that *Assemblie*, was not published till the 22 of that *Moneth*. So that they *Preventing*, and not *Proceeding* by Warrant of Royall Authoritie, the pretended *Commissioners* beeing chosen before the *Presbyteries* were authorized to make election, can not be reputed *Members* of a *Lawfull Assemblie*.

II. *A Lawfull Assemblie*, must not onelie bee indicted by *Lawfull Authoritie*, (as wee acknowledge this to bee) but also constituted of such *Members*, as are requisite to make vp such a *Bodie*. For, if according to the *Indiction*, none at all doe conveane; or, where the *Clergie* is called, there meet none but *Laicks*, or moe *Laicks*, than of the *Clergie*, with equall power, to judge, & determine; or such of the *Laicks*, and *Clergie*, as are not lawfullie authorized, or are not capable of that *Employment* by their *Places*; or such as are legallie disabled

disabled to sit, and decide in an *Assemblee* of the Church. A Meeting consisting of such Members, can not be thought a *Free and Lawfull Assemblee*, by that *Act of Parliament*, 1ac. 6. Parl. 3. cap. 46. 1572. *Everie Minister, who shall pretend to be a Minister of God's Word and Sacraments, is bound to giue his assent & subscription to the Articles of Religion, contayned in the Acts of our Soveraygne Lord's Parliament, and in presence of the Archbishop, Superintendent, or Commissioner of the Province, giue his Oath, for acknowledging and recognoscing of our Soveraygn Lord, and his Authoritie, and bring a Testimoniall in writ thereupon; and openlie, upon some Sunday, in tyme of Sermon, or publicke Prayers, in the Church where hee ought to attend, reade both the Testimoniall and Confession, and of new make the sayd Oath, within a moneth after his Admission: under the payne, that everie person, that shall not doe as is aboue-appointed, shall ipso facto be deprived, & all his Ecclesiasticall promotions, and living, shall be then vacant, as if he were then naturallie dead; and that all inferiour persons, under Prelates, be called before the Arch-bishops, Bishops, Superintendents, and Commissioners of the Dioceses, or Province, within which they dwell, as the Act beareth.*

All of the Clergie conveyaned to this *Assemblee*, III. pretend themselues to bee Ministers of GOD'S Word, and Sacramentes, and haue Benefices, or other Ecclesiasticall Livings, yet neverthelesse the most part of them, haue never in presence of the Archbishop, Bishop, Superintendent, or Commissioner of the Diocese, or Province, subscribed the *Articles of Religion*, contayned in the *Actes*

of *Parliament*, and given their *Oath*, for acknowledging and recognoscing our Soveraygne Lord, and his *Authoritie*, and brought a *Testimoniall* thereof: And, therefore, they are, *ipso facto*, deprived, and their places voyde, as if they were naturallie dead, and consequentlie having no place nor function in the Church, can not be Commissioners to this *Assemblie*: *hoc maxime attento*, that the sayd persons not onlie have never given their *Oath*, for acknowledging his *Majesties Authoritie*, nor can shew no *Testimoniall* therevpon, as they are bound by the sayd *Act*: But also having as subjectes comprehended in the representatiue bodie of this Kingdome, *Promised to acknowledge*, obey, *mayntayne*, *defende*, and *advantage*, the *Lyfe*, *Honour*, *Safetie*, *Dignitie*, *Soverayne Authoritie*, and *Prerogative Royall*, of his *Soverayne Majestie*, his *Heys & Successours*, and *Priviledges of his Highnesse Crowne*, with their *lyues, lands, and goods*, to the uttermost of their power, constantlie, & faythfullie, to withstand all and whatsoever persons, powers, and estates, who shall presume, preasse, or intende, anie wyse to impugn, prejudice, hurt, or impare the same; and never to come in the contrarie thereof, directlie or indirectlie, in anie tyme coming; as the *Acts of Parliament*, Jac. 6. Parl. 18. cap. 1. Car. Parl. cap. 1. doe propert.

And more-over, Being obliedged at their *Admission*, to giue their *Oath*, for performance of this ductie of their *Allégeance*; And to testifie and declare on their conscience, That the *KING* is the lawfull *Supream* Governour, as well in matters *Spiritual* and *Ecclesiasticall*, as *Temporall*; and to assist and defende
all *Iurisd*

all Iurisdiction and Authoritie, belonging to his Majestie, by the Act of Parliament 1612. Yet notwithstanding of the sayde Bannes, Actes, and Promises, whereby the sayd persons are so strictlie bound to the performance of the Premisses, his Majestie having ordayned, by Act of Councell, at Holie-Rood-House, Sept. 24. 1638. and Proclamations following therevpon, That all his Majesties Liedges, of whatsoever estate, degree, or qualitie, Ecclesiasticall or Temporall, should sweare and subscribe the sayde CONFESSION, together with a generall BAND, for defending his Majesties person and authoritie, agaynst all Enemies within this Realme, or without, haue not onlie refused to subscribe the sayd BAND and CONFESSION; but haue in their Sermons, and other Speeches, dissuaded, deterred, impeded, and hindered others of the Liedges to subscribe the same; and publickly protested agaynst the subscription thereof: And therevpon can not conveane, nor concurre lawfullie, to the making vp of the bodie of an Assemblie of the CHURCH, as being deprived and denuded of all place and function in the same.

A Generall Assemblie was condescended vnto, out of his Majesties gracious Clemencie, and pious Disposition, as a Royall Favour to those that so should acknowledge the same, and acquiesce to his gracious pleasure, and carrie themselves peaceably, as loyall and duetifull Subjects, which the Commissioners directed to this Assemblie, supposed to bee of the number of those that adhere to the last Protestation made at Edinb. Sept.

IV.

1638. do not so account of, and accept, as appeareth by the sayde *Protestation*: whereby they protest, That it shall bee lawfull for them, as at other times, so at this, to assemble themselves, notwithstanding anie impediment, or prorogation, to the contrarie: as also by continuing their *Meetings* and *Table*, discharged by *Authoritie*, refusing to subscribe the *BAND* according to his Majesties, and Councells, command, for mayntayning his Majesties Royall person, and authoritie, protesting agaynst the same; still insisting with the *Liedges*, to subscribe the *Band* of mutuall defence, agaynst all persons what-so-ever, and remitting nothing of their former proceedings, where-by his MAJESTIES wrath was provoked: thereby they are become in the same state and condition wherein they were before his Majesties *Proclamation* and pardon; and so forfayte the favour of this *Assemblee*, and libertie to bee *Members* thereof. And others of his MAJESTIES Subjectes may justlie feare to meete with them in this *Convention*, for that by the *Act* of *Parliament*, *Iac. 6. Parl. 15. Cap. 31.* Prelacies beeing declared to bee one of the three *Estates* of this Kingdome, and by the *Act* of *Parliament*, *Iac. 6. Parl. 8. Cap. 130.* All persons are discharged to impugn the dignitie and authority of the three *Estates*, or any of them in time coming, under the paine of *Treason*. And whereas the King by his *Proclamation*, declareth Archbishops and Bishops, to haue voyce in the *Generall Assemblee*, and calleth them to the same for that effect, as constantlie they haue beene in vse in all *Assemblies*, where they

they were present, as appeareth by manie *Acts* of the *Generall Assemblie*, ordaining them to keepe and assist at the same, as in the *Assemblie* at *Edinburgh*, *December 15. 1566.* At *Edinburgh*, *March 6. 1572.* At *Edinburgh*, *May 10. 1586.* And by a *Letter*, written by the *Assemblie*, *March 6. 1573.* to the *R E G E N T*, earnestlie desiring his owne, or his *Commissioner's*, presence, and the *Lords of Councell*, and the *Bishops*, at the *Assemblie*. They notwithstanding by the sayde *Protestation*, *September 22.* declared *Arch-bishops* and *Bishops*, to haue no *Warrant* for their Office in this *CHURCH*, to be authorized with no lawfull *Commission*, and to haue no place nor voyce in this *Assemblie*; and withall doe arrogate to their *Meetings*, a *Soveraygne Authoritie*, to determine of all *Questions* and *Doubtes* that can arise, contrarie to the freedome of the *Assemblie*, whether in *Constitution* and *Members*, or in the matters to bee treated, or in manner and order of proceeding. Which howe it doeth stand with his Majesties *Supremacie*, in all *Causes*, and over all persons, wee leaue it to that judgement, wherevnto it belongeth; and doe call *G O D* and *Man* to Witnesse, if these bee fit *Members* of an *Assemblie*, intended for the Order and Peace of the *CHURCH*.

Giving, and not graunting, That the persons V.
foresayde, directed *Commissioners* in name of the
Clergie, to this *Meeting*, were capable of that
Authoritie, and that the sayd *Presbyteries* had the
authoritie, to direct *Commissioners* to the *Generall*

Assemblie; yet haue they nowe lost, and fallen from all such Right, if anie they had; in so farre as they haue deposed the *Moderators*, who were lawfullie appoynted to governe them, by the Bishops in their *Synodes*, and elected others in their places, contrarie to the *Act* of the *Assemblie* at *Glasgow*, 1610, and *Act* of *Parl.* 1612; ordaining Bishops to be *Moderators* at these *Meetings*; and in their absence, the Minister whome the Bishop should appoynt at the *Synode*. So these *Meetings* having disclaymed the *Authoritie* of Bishops, deposed their lawfull *Moderators*, & choosing others, without *Authoritie*, can not bee esteemed lawfull *Convocations*, that can haue lawfull power of sending out *Commissioners*, with authoritie, to judge of the *Effayres* of this *CHVRCH*:

VI. And yet doeth the Nullitie of the *Commissions* flowing from such *Meetings*, farther appeare in this, That they haue associate to themselves, a Laicke-ruling-Elder; (as they call them) out of everie *Session*, and *Parish*; who beeing ordinarilie the lord of the *Parish*, or the man of the greatest authoritie in the Boundes, doeth over-rule in the election of the sayd *Commissioners*, both by his authoritie, and their number, beeing more than the *Ministers*, whereof some beeing ordinarilie absent, and five or sixe, or so manie of them, put in list, and removed, there remayne but a few *Ministers*, to voyce to the *Election*: and in effect the *Commissioners* for the *Clergie*, are chosen by *Lay-men*, contrarie to all order, decencie, and custome observed in the *Christian world*; no wyse
accord

according to the custome of this *CHURCH*, which they pretend to follow: the *Presbyteries* formerlie never associating to themselves *Lay-Elders* in the election of the *Commissioners* to the *Generall Assemblie*, but onlie for their assistance in *Discipline*, and correction of *Manners*; calling for them at such occasions, as they stood in neede of their *Godlie Concurrence*; declaring otherwyse their meeting not necessarie; and providing expresselie, that they should not be equall, but fewer in number, than the *Pastors*; as by the *Act of Assemblie* at *Saynt-Andrewes*, *Aprill 24, 1582*, (where *Master Andrew Melvill* was *Moderator*) doeth appeare: lyke as these fourtie yeares by-gone, and vpwardes, long before the re-establishing of *Bishops*, these *Lay-Elders* haue not bene called at all to *Presbyteries*. And by the *Act at Dundie*, *1597*; whereby it is pretended, That *Presbyteries* haue authoritie to sende these *Lay-Commissioners*, it doeth no wyse appeare, that those *Lay-Elders* had anie hand in choosing of the *Ministers*. And this is the onlie *Act* of the *Assemblie*, authorizing *Presbyteries*, to choose *Commissioners* to the *Generall Assemblie*: nor haue *Lay-Elders* sate ordinarilie in *Presbyteries*, vpon anie occasion, these fourtie yeares, and vpwardes: nor ever had anie place, nor voyce, in the election of *Ministers*, for the *Generall Assemblie*: and consequentlie, these chosen by them to this *Assemblie*, haue no lawfull power, nor authoritie.

Beside; The persons *Ecclesiasticall*, pretended to be authorized *Commissioners* to this *Assemblie*, VII,

haue so behaved themselves, that iustlie they may be thought vnworthie and vncapable of *Commis- sion* to a *Free and Lawfull Assemblie*.

1. For that by their seditious and rayling *ser- mons* and *Pamphlets*, they haue wounded the *KING's* Honour, and Soveraygne Authoritie, and animated his Liedges to Rebellion; averring, That all *Authoritie Soveraygne*, is *Originallie* in the *Collective bodie*, derived from thence, to the Prince; and that not onlie in case of negligence, it is *Suppletive* in the *Collective bodie*, as beeing cummunicate from the *Commontie*, to the *King*; *Cumulative*, not *Privative*: but also in case of maladministation, to returne to the *Collective bo- die*; so that *Rex excidit iure suo*, and that they may refuse *Obedience*.

2. Next; They are knowne to bee such as haue eyther beene Schismaticallie refractarie and opposite to good *Order* settled in the *CHVRCH* and *STATE*; or such as having promised, sub- scribed, and sworne *Obedience* to their *Ordinarie*, haue never made conscience of their *Oath*; or such as haue sworne, and accordinglie practised; yet contrarie to their *Promise*, and *Practise*, haue refiled, to the contempt of *Authoritie*, and disturbance of the *CHVRCH*; or such as are vnder the Censures of the Church of *Ireland*, for their disobedience to *Order*; or vnder the Censures of this *CHVRCH*; or conveaned, at least deserving to bee conveaned before the *Ordinaries*, or a law- full *Generall Assemblie*, for diverse *Transgressions*, deserving *Deprivation*: As first, For vttering in
their

their *Sermons*, rash, and irreverend speeches, in *Pulpit*, agaynst his Majesties *Councell*, and their *Proceedinges*, punishable by *Deprivation*: by the *Act* of *Assemblee* at *Edinburgh*, May 22. anno 1590. Next; For reproving his Majesties *Lawes*, *Statutes*, and *Ordinances*, contrarie to the *Act* of *Assemblee* at *PEARTH*, May 1. Anno 1596. Thirdlie; For expressing of mens names in *Pulpit*, or descrying them viuelie to their reproach, where there was no notorious fault; agaynst another *Act* of the same *Assemblee*. Fourthlie; For vsing *Applications* in their *Sermons*, not tending to the edification of their present *Auditorie*, contrarie to another *Act* of the same *Assemblee*. Fiftlie; For keeping *Conventions*, not allowed by his Majestie, without his knowledge, and consent; contrarie to another *Act* of the same *Assemblee*. Sixtlie; For receaving of people, of other Ministers Flockes, to the *Communion*; contrarie to *Order*, *Actes* of *Assemblies*, and *Counsels*. Seaventhlie; For intruding themselves into other mens *Pulpits*, without *Calling*, or *Authoritie*. Eyghtlie; For vsurping the *Authoritie* to covent their *Brethren*, and proceede agaynst them, to the Censures of *Suspension*, and *Deprivation*. Nynthlie; For pressing the people to subscribe a *Covenant*, not allowed by *Authoritie*; and opposing and withstanding the subscribing of a *COVENANT* offered by his Majestie, and allowed by the *Counsell*: Beside manie personall faultes, and enormities, whereof manie of them are guiltie, which in Charitie we forbear to expresse. But heereby it doeth appeare, how

vnfit these persons are, to bee *Members of a Free and Lawfull Assemblie*.

VIII. Nor doeth it stand with *Reason, Scripture, or Practise of the Christian Church*, that *Lay-men* should bee authorized, to haue decisiue voyce in a *Generall Assemblie*. In that *Act of Dundie, 1597*, whereby these Elders prentende to haue this place, there is no Warrant expresse for them, to deliberate, and determine. Their presence, and assistance, we approue, being allowed, and authorized, by the Prince. The Kings Majesties presence in person, or by his *Delegates*, wee holde moste necessarie, to see all thinges orderlie and peaceable done; and that hee haue the chiefe hand in all *Deliberations, and Determinations*. Nor doe wee refuse, that anie Intelligent, or moderate man, may make remonstrance of his opinion, with the reasons of it, in that way that becommeth him in a *Nationall Assemblie*; due reverence beeing kept, and Confusion avoyded. But that anie *Lay-man*, except hee bee *Delegate*, by *Soveraygne Authoritie*, shall presume to haue a definitiue and decisiue Voyce, wee esteeme it to bee intrusion vpon the *Pastorall Charge*, and without Warrant. May wee not, therefore, intreat my Lord Commissioner his Grace, in the words of the *Fathers of the Fourth Generall Council at Chalcedon, Mitte foras superfluos*? Nor will a pious Prince bee offended with it, but with *Theodosius the younger, will say, Illegitimum est, cum qui non sit in ordine Sanctissimorum Episcoporum Ecclesiasticis immisceri tractatibus* — And Pulcheria the

the Empresse, commaunded *Strategus, Vt Clerici, Monachi, & Laici, vi repellerentur, exceptis paucis illis quos Episcopi secum duxerunt.* Upon this respect was *Martinus* in that Councell of *Chalcedon*, moved to say; *Non esse suum, sed Episcoporum tantum subscribere.*

If these pretended Commissioners, both Lay IX:
and Ecclesiasticall, were lawfullie authorized, (as it is evident they are not) and for none other cause declinable, yet the Law doeth admit, that justlie a *Iudge* may bee declined, who is probable suspect. And of all probabilities, this is the most pregnant, when the *Iudge*, before hee come to judgement, doeth giue sentence of these things hee hath to judge. This made our Reformers Protestation agaynst the Councell of *Trent*, valide; and their not compearing, justifiable, because Pope *Leo 10* had precondemned *Luther*, as appeared by his Bull, dated 8 *Iunii*, 1520, renewed by *Paul 3*, dated in *August* 1535. This was the cause why *Athanasius* would not giue his appearance at some Councells, nor *Hosius* of *Corduba*, nor *Maximus* Patriarch of *Constantinople*. But so it is, the most part, if not all of the sayde Commissioners directed to this Meeting, haue precondemned EPISCOPALL GOVERNMENT, and condemned, at least suspended Obedience to the Acts of the Generall Assemblie, and Parliament, concerning the five Articles of *Pearth*, haue approven their COVENANT as most necessarie to be embraced of all in this Kingdome: and not onelie haue given judgement of these thinges

before-hand; but by most solemne *Oathes*, haue bound themselves, to defende, and stand to the same: as doeth appeare by their *Covenant*, *Petitions*, *Protestations*, *Pamphlets*, *Libels*, and *Sermons*. And, thererfore, by no *Law* nor *Equitie*, can these pretended *Commissioners* bee admitted to determine in this *Meeting*, concerning these *Persons* and *Poynts*, which before-hand they haue so vnjustlie condemned.

- X. Farther: With no *Law* nor *Reason* can it subsist, that the same persons shall bee both *Judges* and *Parties*. And wee appeale the Consciences of all honest men, if all, at least the greatest parte of the pretended *Commissioners*, haue not declared themselves *Partie* to the Arch-bishops, and Bishops, of this *CHVRCH*: For in that they haue declyned the Bishops to be their *Judges*, as beeing their *Partie*, (as their *Declinators*, *Petitions*, *Declarations*, and *Protestations*, doe beare) haue they not *simul & semel*, & *ipso facto*, declared themselves to bee *Partie* agaynst Bishops? Whom they haue not onlie declyned, but persecuted, by their *Calumnies* and *Reproaches*, vented by word and writ, in publicke, and in private; by invading their persons, opposing and oppressing them, by strength of an vnlawfull *Combination*; for the subscribing and swearing whereof, they haue, by their owne *Authoritie*, indicted and kept *Fastes*; not onelie in their owne Churches; but where worthie men refused to bee accessorie to these disorderlie and impious *Courses*, they haue, by ayde of the vnruelie multitude, entered their Churches, vsurped vpon their

on their Charges; reading, and causing to be read, that vnlawfull *Covenant*; by threatning and menacing, compelling some, (otherwyse vnwilling) out of iust feare, to set their hands to it; by processing, suspending, and removing, obedient and worthie Ministers, from their places, by the vsurped *Authoritie* of their *Table*, and *Presbyteries*. And whereas by all *Law* and *Iustice*, persons finding themselues wronged in *Iudgement*, haue never bene denied the remedie of *Declinatorie*, and *Appellation*: Neverthelesse, not a few of these *Presbyteries* haue proceeded against sundrie worthie Ministers, who haue declyned, and appealed from their *Iudgements*, without respect to this *Defence*: by these means craftilie intending to disable them to be *Commissioners* for the *CHVRCH*: directlie, or indirectlie, causing their *Stipendes* to bee kept backe from them. By which meanes, not the least parte of the subscribing Ministers haue bene gayned to their *Covenant*.

But it is without example, vncharitable, and illegall, that vnder the pretext of *Summons*, (the like whereof was never vsed, nor in the like manner, agaynst the most haynous *Malefactors* in the kingdome) they haue devised, forged, vented, and published a most infamous ad scurrile *Libell*, full of impudent *Lies*, and malicious *Calumnies*, against the Arch-bishops, and Bishops, of this *CHVRCH*: and haue first given out from their *Table*, the *Order* prescrybed in these subsequent *Articles*, which we haue insert, that the World may be Witnesse of the *Illegalitie*, and *Maliciousnesse*, of their *Proceedinges*.

I.

TO desire the Presbyterie of everie Bishop, especiallie where hee keepeth his Residence, as also the Presbyterie where his Cathedral Seat is, to have a speciall care of this Bill, and Complaynt agaynst the Prelates, and particularlie agaynst the Bishop of their Diocese.

II.

THAT some Noble-men, if anie be within the Presbyterie, some Gentle-men, and Barons, some Ministers, and some Commons, who are not chosen Commissioners to the Assemblie, in their owne Name, and in Name of all other Covenanters, or Complayners, cyther within the Presbyterie, or Diocese, or whole Kingdome, who are not Commissioners to the Assemblie, will adheare, and assist in this Complaynt, that they present this Bill to the Presbyterie.

III.

THAT they who are Complayners, have a particular care to fill up the Blanks left in the Bill, in the Subsumptions of the particular Faults committed by the Bishop of the Diocese, agaynst these generall Rules, Canons, and Actes: or if these Blankes will not containe the same, that the Complayners draw up in a particular Clayme, all the particular Faultes, and Transgressions of the Bishop of that Diocese, agaynst these Rules, Canons, and Actes, or anie other Law of the Church, or Kingdome, and present the same to the Presbyterie, with this generall Complaynt. And if they can not get the Particulars present

presentlie readie, notwithstanding, they present without anie delay, because of the scarcenesse of the tyme, this Complaynt, as it standeth with the Blanks: and in the meane tyme, may gather anie other Particulars, agaynst the Assemblie, to which this Complaynt is to bee referred.

IV.

THat the Presbyterie finding the Complaynt important, & the Generall Assemblie so approaching, referre the same to the Generall Assemblie, by an Act of this Reference, insert in the Bookes of the Presbyterie.

V.

THat upon this Reference of the Complaynt to the Assemblie, the Presbyterie admonish the Complayners, apud acta, to be present at the sayde Assemblie, for assisting and verifying of the sayde Complaynt.

VI.

THat the Presbyterie ordayne all their Pastors, out of Pulpit, on a Sabbath-day, before noone, to cause reade publickly this whole Complaynt, and the Presbyteries Reference to the Assemblie; and so to admonish the Bishop of that Diocese, the Delinquent complayned upon, with the rest of his Collegues, to be present at the Gen. Assembly, to answer to the particular Complaynt, both in the particular & generall heads therof, give, or to be give in; & to abide the censure & tryall of th^e Assemblie thereupon. And lykwyse, out of Pulpit to admonish all others, who have interest eyther in the persuing, or referring this Complaynt, to be present, at the sayd Assemblie.

VII.

THAT the Presbyterie insert, in their Presbyterie-Bookes, the whole tenour of this Complaynt, both in the generall and particular heads thereof: and that they have a care, to cause deliver, by their ordinary Beadell, to the Bishop of the Diocese, a Copie thereof, and a Copie of an Act, referring the same to the Assemblie; and summon him, to compeare before the Assemblie. And if he be within the Countrey, and can not be personallie apprehended, to affix a full Copie thereof upon each dwelling place, and upon the most patent doore of the Cathedrall Church, and Episcopall Seat.

VIII.

THAT the Complayners, within the Presbyterie where the Bishop is residēt, or hath his Cathedrall, be carefull to keep corresseponce with those in other Presbyteries within their Diocese, who best can specifie & verifie their Bishops usurpation, & transgressions; and who had particular Articles, to gather particular Declarations, and Informations, of the same.

IX.

THAT some of these Complayners, in their own name, and with Warrant and Power from the rest, without fayling, attend the Assemblie, with the generall Complaynt, and particular Verifications, & Specifications, of the same.

X.

THAT in case the Presbyterie where the Bishop hath his residence, or where he hath his Cathedrall, and Episcopall Seat, refuse to receive this Complaynt, or referre the same to the Assemblie, or to admonish, or
cite,

cite, the Bishop delinquent, before the Assemblie, to answer to the Complaynt; That the Gentle-men, and others, who are Complayners to the Presbyteries, upon their Refusall, take Instrument, in the handes of the Clerke of the Presbyterie, or anie Notarie; and protest, That their Refusall of the ordinarie care of Iustice, procured (without doubt) by the Bishop of that Diocese, delinquent, complained of, the equivalent of Law and Reason, bee a formall Citation of him. Which Protestation, they may affixe upon the dwelling house of the sayde Bishop, or upon his Cathedral Church, or upon the pryme Church within the Presbyterie. And, That they may deale with anie other Presbyterie within the Diocese, who is better disposed, and upon their receipt of the Complaynt, will referre the same to the Assemblie, and cite the Bishop in manner aboue-expressed, to compeare before the sayd Assemblie.

XI.

I T E M : Perhaps some Minister within the Presbyterie, may thinke some Heads of this Complaynt, not to be relevant in his Opinion, or know the Bishop, not to bee guiltie of all the particular Heads containd therein; Yet hee in Iustice can not refuse to referre the tryall of the Relevancie, and Probation thereof, to the Generall Assemblie; especiallie, seeing the Relevancie and Probation of more or fewer Points against the Bishop of the Diocese, is sufficient; and seeing the Subsumption of everie particular Head, is against the Bishop of the Diocese, with his Col leagues.

XII.

ITEM; To desire the Presbytery, vpon Complaynts vpon anie persons within the same, against any scandalous Minister, eyther in Doctrine or Lyfe, eyther to judge the Complaynt, or referre the same to the tryall and censure of the Generall Assemblie: and so to admonish and cite the Ministers complayned vpon, to compeare before the Generall Assemblie, for that ende.

According to which *Articles*, vpon Sunday, October 28, they caused read the sayd *Libell* in all the Churches of *EDINBURGH*, notwithstanding my Lord Commissioners command given to the *Provest* and *Baylies* to the contrarie, except in *Holie-Rood-House*, where it was read the next Sunday, as it was in other Churches of the Kingdome; proceeding heerein, 1. Agaynst all Charitie, which doeth not behaue it selfe vnseemlie, nor delighteth in the discoverie of mens nakednesse, nor take vp a reproach, nor back-bite with the tongue; much lesse to write a Booke agaynst a Brother. 2. Agaynst the order prescribed by the Apostle; *Not to rebuke an Elder, but to intreate him as a Father*: and by the *Act of Parliament*, *Iac. 6, Parl. 8*, discharging all persons to impugn or to procure the diminution of the authoritie & power of the three *Estates*, or anie of them. 3. Agaynst all lawfull and formall proceeding, speciallie, that prescribed by *Act of Generall Assemblie* at *PEARTH*, *Martij 1, 1596*; whereby it is ordayned, That all *summons* contayne the speciall

ciall Cause and Cryme: which the sayde Libell doeth not: nameing onelie generall Calumnies, Reproaches, and Aspersions, without instruction of anie particular, but leaving these to bee filled vp by malicious delation, after they haue defamed their Brethren by publishing this Libell: as appeareth by the 8 and 11 Articles of the sayde Instructions. And agaynst the order prescrybed by the Assemblie at Saynt-Andrewes, APRILL 24, 1582; whereby it is enacted, That in processe of deprivation of Ministers, there be a libelled Precept vpo fourtie dayes warning, beeing within the Realme; and threescore dayes, being without the Realme, to bee directed by the Church, and such Commissioners thereof, as elect and admit the person cōplained of; summoning them to cōpeare, & answere vpon the Complaint. And in case of their absence at the first Summons, the second to be directed vpon the lyke warning, with certification: if hee faile, the Libell shall be admitted to probation, and hee shall bee holden pro confesso. Which forme not beeing kept in a Summons inferring the punishment of Deprivation, the same can not bee sustayned by the order of that Assemblie.

4. Agaynst common Equitie, which admitteth Summons onlie by the authoritie of that Iudge before whom the Delinquent is to cōpeare. Whereby the Summons directed by the authoritie of these pretended Presbyteries, can not sustayne, for compearance before the Generall Assemblie, nor could reference bee made from the Presbyterie, to the Generall Assemblie, the parties never beeing summoned to compeare before the Pres-

byterie, whereby eyther in presence of the *Partie*, or in case of contumacie, the *Complaynt* might be referred to the *Assemblee*. That there was no *Citation* before the *Reference*, is cleare, by the sayd *Instructions*. And what a strange and odious forme it is, to insert such a calumnious *Libell* in the *Presbyterie-Bookes*, without citing of the *Parties*, to aunswere therevnto; and to cite the Bishops before the *Generall Assemblee*, by the sayde *Libell*, by publishing the same at *Churches*, to the which they had no *Relation*, and were manie miles distant; wee leaue it to the judgement of indif. rent men. 5. Agaynst all *Decencie*, and respect due to men of their *Place*, the sayde persons, beeing Men of *Dignitie*, and some of them of his Majesties moſte *HONOVRABLE PRIVIE COUNCELL*, and knowne to bee of blamelesse *Conversation*, and to haue deserved well, thus to bee reviled, and traduced, doeth redound to the reproach of Church, and State, and of the *Gos- PELL*, whereof they are Preachers. 6. Lastlie, to omit manie other *Informalities*, agaynst their owne *Conſciences*, which wee charge in the sight of GOD, as they must answer before His Great and Fearfull Tribunall, If they suspect, and know not perfectlie, according to the judgement of *Charitie*, them whom they thus accuse, to bee free of these *Crimes*, wherewith they charge them; at least of manie of them; as appeareth evidentlie by the xj *Article* of the said *Instructions*, having therein libelled the *Generall*, and haue yet to seeke the *Specification* therof, from the malice of their neighbours,

bours, if so bee they can furnish it. By which informall and malicious *Proceeding*, it is most apparent, that our sayd *Parties* doe seeke our disgrace and overthrowe, most malitiouſlie, and illegallic. And therefore, wee call Heaven and earth to witness, if this bee not a barbarous, and violent persecution, that all *Circumstances* being considered, hath few or none to parallell it, since the beginning of Christianitie: and if wee have not just cause to decline the sayde pretended *Commissioners*, as our *Partie*.

Moreover, can these men expect, but in a lawfull *Assemblee* they were to bee called and censured for their enorme transgressions foresayde? And will anie man thinke, that they can be judges in their owne cause? it is alleadged out of the *Canon-Law*, agaynst the *Pope*, that if the *Pope* bee at variance with anie man, hee ought not to bee judge himselſe, but to chooſe *Arbitrators*. And this may militate agaynst them, except they bee more vnrule than *Popes*. *Ludovicus Bavarus*, and all the *Estates* of *Germanie* with him, did pleade this *Nullitie* agaynst the sentence and proceeding of *Pope Iohn 22*, and of his *Councell*. And the *Arch-bishop* of *Cullen*, 1546, did pleade the *Nullitie* of *Pahll 3* his *Bull* of *Excommunication*, because hee protested, that so soone as a lawfull *Councell* should bee opened, hee would impleade the *Pope* as *Partie*, being guiltie of manie things censurable by the *Councell*.

But the late *Protestation* doeth show the Authors thereof, to bee no lesse injurious to our

Place, and *Authoritie*, than they are overweening of their owne. For it is agaynst *Reason*, and *Practise* of the Christian Church, that no *Primate*, *Arch-bishop*, nor *Bishop*, haue place nor voyce deliberatiue, or decisiue, in *Generall Assemblies*; except they bee authorized, and elected, by their *Presbyteriall Meetings*, consisting of *Preaching* and *Ruling-Elders*, (as they call them) and without Warrant, or Example, in the Primitiue, and purest tymes of the Church.

XII. This also doeth inferre the Nullitie of an *Assemblee*, if the *Moderator* and *President* for matters of *Doctrine*, and *Discipline*, shall bee neyther the *Primate*, *Arch-bishop*, nor *Bishop*; but he who by pluralitie of *Presbyters*, and *Lay-mens* voyces, shall bee elected: which happilie may bee one of the inferiour *Clergie*, or a *Lay-person*, as sometymes it hath fallen out. Whereas *Canonicallie*, according to the auncient *Practise* of the CHURCH, the *Primate* should preside: according to the *Constitution* of the *First Councell of Nice*, *Can. 6*, of *Antioch*, *Can. 9*, and of the *Imperiall Lawe*, *Novell. Constitut. 123*, *Cap. 10*, and according to our owne *Lawe*. For what place in *Assemblies*, *Arch-bishops* and *Bishops* had in other Christian Nations, the same they had (no doubt) in SCOTLAND, and yet still doe retayne, except by some *Municipall Lawe* it hath beene restrayned, which can not bee shewne: For the restraynt of their *Authoritie* by the *Act of Parliament 1592*, is restored by the *Act of Parliament 1606*, and 1609; and all *Actes prejudiciall to their Iurisdiction*, abrogated.

ted. Neyther doeth that *Act* 1592, establishing *Generall Assemblies*, debarre *Bishops* from presiding therein: Nor the abrogation of their *Commission*, graunted vnto them by *Act* of *Parliament*, in *Ecclesiasticall Causes*, imply and inferre the abrogation of that *Authoritie*, which they receaved not from the *Parliament*, but from *CHRIST*, frō Whom they receaved the *spirituall Oversight* of the *Clergie*, vnder their *Charge*: wherevnto belongeth the *Presidentship* in all *Assemblies*, for matters *Spirituall*; alwayes with due Submission to the *Supream Governour*: which is so intrinsecallie inherent in them, as they are *Bishops*, that *hoc ipso* that they are *Bishops*, they are *Presidentes* of all *Assemblies* of the *Clergie*: as the *Chancellour* of the *Kingdome* hath place in *Councell*, and *Session*; not by anie *Act*, or *Statute*, but *hoc ipso* that hee is *Chancellour*. By *Act* of *Parliament*, *Bishops* are declared, to haue their *Rights* in *Synodes*, and other inferiour *Meetinges*; but by no *Lawe* restrayned, nor debarred from the exercyse of it in *Nationall Assemblies*: and the *Lawe* allowing *Bishops* to bee *Moderators* of the *Synodes*, doeth present a *List*, in absence of the *Metropolitane*, to whome, of right, this *Place* doeth belong, as sayd is, out of which the *Moderator* of the *Generall Assemblies* shall bee chosen. For is it not more agreeable to *Reason*, *Order*, and *Decencie*, that out of *Moderators* of *Synodes*, a *Moderator* of the *Generall Assemblies* should bee chosen, than of the inferiour *Clergie*, subject to them?

As concerning that *Act* of the *Generall Assemblies*, Anno

blie, Anno 1580, whereby Bishops are declared to haue no Warrant out of Scripture; if corruption of tyme shall bee regarded, the authoritie of that Assemblie might bee neglected, no lesse than that at Glasgow, Anno 1610. But it is ordinarie, that Prior Actes of Assemblies, and Parliaments, giue place to the Posterior: For Posteriora derogant Prioribus. And there past not full sixe yeares, when A Generall Assemblie at Edinburgh found, that the Name of Bishops, hath a speciall Charge, and Function, annexed to it, by the Word of GOD: and, that it was lawfull for the Generall Assemblie, to admit a Bishop to a Benefice, presented by the Kings Majestie; with power to admit, visite, and depriue Ministers, and to bee Moderatores of the Presbyteries where they are resident, and subject onelie to the Sentence of the Generall Assemblie.

As for that Act at Montrose, let them answer to it that haue their Calling by that Commission: Wee professe, That wee haue a lawfull Calling, by the election of the Clergie, who are of the Chapter of our Cathedralls, and Consecration of Bishops, by his Majesties Consent, and Approbation, according to the laudable Lawes, and auncient Customes of this KINGDOME, and of the CHURCH in auncient tymes; and doe Homage to our Soveraygne Lord, for our Temporalities; & acknowledge him, *solo DEO minorem*, next vnto GOD, in all Causes, and over all Persons, Spirituall, or Temporall; in his owne Dominions, Supreme Governour. But now wee may take vp

Cyprian

Cyprian his Complaynt, LIB. 3. EP. 14. *Quod non periculum metuere debemus de offensâ Domini, quando aliqui de Presbyteris, nec Evangelii, nec loci sui memores; sed neque futurum Dei iudicium, neque præpositum sibi Episcopum cogitantes, quod nunquam omnino sub antecessoribus factum est, cum contumelia & contemptâ præpositi totum sibi vendicent? Atque utinam non prostratâ fratrum nostrorum salute sibi omnia vendicarent. Contumelias Episcopatus nostri dissimulare & ferre possem; sicut dissimulavi semper & pertuli: sed dissimulandi nunc locus non est, quando decipiatur fraternitas nostra à quibusdam vestrum, qui dum sine ratione restituendæ salutis, plausibiles esse cupiunt, magis lapsi obstant.*

Lastlie; It is most manifest by the Premisses, XIII.
how absurd it is, and contrarie to all Reason, and Practise of the Christian Church, that Archbishops, and Bishops, shall bee judged by Presbyters; and more absurd, that they should bee judged by a mixt Meeting of Presbyters and Laicks, conveyning without lawfull Authoritie of the Church. Howe, and by whome, they are to bee judged, according to the Custome of Ancient tymes, may bee seene by the Councell of Chalcedon; Can. 9, and Concil. Milevit. Can. 22, and Concil. Carthag. 2, Can. 10. Nor doe wee declyne the lawfull tryall of anie competent iudicatorie in the Kingdome; especiallie of a Generall Assemblie lawfullie constitute, or of his Majesties high Commissioner, for anie thing in lyfe or doctrine, can be layde to our charge: onlie we declare and affirme, That it is against Order, De-

rencia, and *Scripture*, that we should be judged by *Presbyters*, or by *Laickes*, without *Authoritie* and *Commission*, from *Soveraygne Authoritie*.

For the *Reasons* fore-sayd, and manie moe, and for discharge of our duetie to GOD, to His *CHVRCH*, and to our *Sacred Soveraygne*, lest by our silence we betray the *CHVRCHES* *Right*, his Majesties *Authoritie*, and our owne *Consciences*, Wee for our selues, and in Name of the *CHVRCH* of *SCOTLAND*, are forced to protest, That this *Assemblee* bee reputed and holden *Null* in *Lawe Divine* and *Humane*: and, That no *Church-man* bee holden to appeare before, assist, or approue it: and therefore, that no *Letter*, *Petition*, *Subscription*, *Interlocator*, *Certification*, *Admonition*, or other *Act* what-so-ever proceeding from the sayd *Assemblee*, or anie *Member* thereof, bee anie wyse prejudiciall to the *Religion*, and *Confession* of *Fayth*, by *Act* of *Parliament* established, or to the *CHVRCH*, or anie *Member* thereof, or to the *Iurisdiction*, *Liber-ties*, *Priviledges*, *Rentes*, *Benefices*, and *Possessions* of the same, *Actes* of *Generall Assemblee*, of *Councell*, and *Parliament*, in Favoures thereof; or to the three *Estates* of the *Kingdome*, or anie of them; or to vs, or anie of vs, in our *Persons*, or *Estates*, *Authoritie*, *Iurisdiction*, *Dignitie*, *Rentes*, *Benefices*, *Reputation*, and good *Name*: But on the contrarye, That all such *Actes* and *Deedes* aboue-men-tioned, and everie one of them, are, and shall bee reputed and esteemed vnjust, illegall, and *Null* in themselves; with all that hath followed, or may follow there-vpon.

And

And for as much as the sayde *Assemblee* doeth intende, (as we are informed) to call in question, discusse, and condemne thinges not onelie in themselves lawfull, and warrandable; but also defined and determined by *Actes of Generall Assemblee*, and *Parliaments*; and in practise accordinglie; to the disgrace and prejudice of *Reformed Religion*, authoritie of the *Lawes* and *Liberties* of the *Church* and *Kingdome*; weakening his Majesties *Authoritie*, disgracing the *Profession* and *Practise*, which hee holdeth in the *Communion* of the *Church* where hee liveth; and branding of *Reformed Churches*, with the foule aspersions of *Idolatrie* and *Superstition*: Wee protest before GOD and man, that what shall bee done in this kinde, may not redound to the disgrace or disadvantage of *Reformed Religion*, nor bee reputed a deede of the *Church* of **SCOTLAND.**

Wee protest, that wee imbrace and hold, That the *Religion* presentlie professed in the *Church* of **SCOTLAND**, according to the *Confession* thereof, receaved by the *Estates* of this *Kingdome*, and ratified in *Parliament*, the yeare 1567, is the true *Religion*, bringing men to *Eternall Salvation*, and doe detest all contrarie *Error*.

Wee protest, That *Episcopall Government* in the *Church*, is lawfull, and necessarie: and, That the same is not opposed, and impugned, for anie *Defect* or *Fault*, eyther in the *Government* or *Governoures*; but by the malice and craft of the

Devill, envying the successe of that *Government* in this *CHURCH* these manie yeares by-past, most evident, in planting of *Churches* with able and learned *Ministers*, recovering of the *Church* Rents, helping of the *Ministers* Stipends, preventing of these jarres betwixt the *KING* and the *CHURCH*, which in former tymes dangerouſlie infested the same, keeping the peope in *Peace* and *Obedience*, and suppressing of *Poperie*, which in respect eyther of the number of their *Professours*, or boldnesse of their *Profession*, was never at so lowe an ebbe in this *Kingdome*, as before these stirres.

Wee protest, That seeing these who for scruple of conscience did mislyke the *Service-Booke*, *Canons*, and high *Commission*, which were apprehended, or given foorth, to be the cause of the troubles of this *Church*, haue now receaved satisfaction, and his *Majestie* is graciouslie pleased to forget and forgiue all offences by-past in these stirres; that all the Subjectes of this *Kingdome* may liue in *Peace* and *Christian Love*, as becommeth faythfull Subjectes, and good Christians; laying aside all hatred, envye, and bitternesse. And if anie shall refuse so to doe, they may beare the blame, and be thought the cause of the troubles that may ensue: and the same bee not imputed to vs, or anie of vs, who desire nothing more, than to liue in peace and concord with all men, vnder his *MAIESTIES* obedience, and who haue committed nothing agaynst the *Lames* of the *Kingdome* and *Church*,

Church, that may giue anie man iust cause of offence; and are so farre from wilhing hurt to anie man, in his person, or estate, notwithstanding all the indignities and injuries wee haue suffered, that for quenching this present Combustion, and settling Peace in this Church, and Countrey, wee could bee content, after clearing of our innocence, of all things where-with wee can bee charged, not onelie to lay downe our Bishopricks at his Majesties feet, to be disposed of at his Royall pleasure; but also, if so bee, it pleased GOD, to lay downe our lyues, and become a Sacrifice, for this Atonement.

Wee protest, in the sight of GOD, to Whom one day wee must giue Account, That wee make vse of this *DECLINATOR*, and *PROTESTATION*, out of the conscience of our duetie to GOD, and His *CHURCH*, and not out of feare of anie guiltinesse, whereof anie of vs is conscious to himselfe, eyther of wickednesse in our lyues, or miscarriage in our Callings: being content, everie one of vs, for our owne particular, (as wee haue never showne our selues to bee otherwise) to vnder-goe the lawfull, and moste exact Tryall, of anie competent Iudicatorie within this Kingdome, or of his Majesties high Cōmissioner.

And wee moste humblie intreat his Grace, to intercede with the King's Majestie, That hee may appoynt a *Free and Lawfull Generall Assemblie*, such as GOD'S Word, the practise of the Primitive Church, and Lawes of the Kingdome doe prescribe, and allowe, with all convenient speed,

to the effect, the present Distractions of the Church may be settled. And if there be anie thing to be layd to the charge of any of the Clergie, of what-so-ever degree, cyther in Lyfe and Manners, or Doctrine, or exercise of his Calling, and Iurisdiction, hee may bee heard to aunswere all Accusations, and abyde all tryall, cyther for clearing his innocencie, or suffering condigne punishment, according to his Transgressions: declyning alwayes this *Assemblee*, for the causes aboue-written. Lyke as by these Presentes, wee, and everie one of vs, declyne the same, the whole *Members* thereof, and *Commissioners* fore-sayd, directed therevnto, and everie one of them.

Wee protest, That this our *PROTESTATION*, in respect of our lawfull absence, may bee receaved, in the Name of vs vnder-subscribing, for our selues, and in the Name of the *CHVRCH* of *SCOTLAND*, that shall adheare to the sayde *PROTESTATION*, and in the Name of everie one of them, From our well-beloved, Doctor *ROBERT HAMILTON*, Minister at *GLASGOW*:

To whome, by these Presentes, wee giue our full Power, and expresse Mandate, to present the same in or at the sayde *Assemblee*, or where else it shall bee necessarie to bee vsed; with all submission, and obedience, due to our Gracious Sovereaygne, and his Majesties High Commissioner. And vpon the presenting and vsing thereof, Acts and Instrumentes to craue, and all other thinges to doe, that necessarilie are requyred in such Cases:

finis

AND PROTESTATION.

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firme and stable holding, or for to holde, what
hee, or anie of them, shall lawfullie doe in the
Premisses.

In witnesse where-of, as wee are readie with
our Blood, so with our Hand, wee haue subscri-
bed these Presentes, at the Palace of HOLIE.
ROOD-HOUSE, NEW-CASTLE, and GLAS-
GOW, the 16, 17, and 20 dayes of November,
Anno 1638. Et sic subscribitur.

Jo: S^r Andrea Arch. Jo. Spottiswoode

Pa: Glasgow. Patrick Lindsay

Da: Edinburgen. David Lindsay

Tho: Gallovidien. Thom. Sydscap

Jo: Rossen. John Maxwell

Walterus Brechinen. Walter Whitefo

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AND PROTESTATION.

And in the holding or for to hold, what
 has, or any of them, shall lawfully doe in the
 Premises.

In witness whereof, as we are compe with
 our blood to with our Hand, we have signed
 below these Premises, at the Palace of HOLIE
 ROOD-HOUSE, NEW-CASTLE, and CLARE
 COVE, the 12th and 13th dayes of November
 Anno 1588. In the 36th year.



To: Andrew Arch.

To: Glasgow.

To: Edinburgh.

To: Gallovidien.

To: Ross.

Walterus Brechin.

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